

1 Q Do you have a current employment?

2 A Do I have a what?

3 Q Current employment.

4 A I'm an officer and director in any number of  
5 different companies that I receive compensation from on a  
6 regular basis.

7 Q Do you consider yourself an employee of  
8 those --

9 A No.

10 Q Do you perceive yourself to have made any pledge,  
11 commitment or statement to the FCC during the course of this  
12 proceeding which would obligate or commit you to resign from  
13 Sinclair Broadcast Group, Inc. in any respect if you're  
14 successful in obtaining Channel 2?

15 A No.

16 JUDGE SIPPEL: Are you close to concluding this, Mr.  
17 Greenebaum?

18 MR. GREENEBAUM: Yes, Your Honor, I am. I would  
19 move Exhibit 45, the declaration, into evidence, Your Honor.

20 JUDGE SIPPEL: Any objection, Mr. Leader?

21 MR. LEADER: No, Your Honor.

22 JUDGE SIPPEL: 45 is in.

23 (Whereupon, Scripps Howard Exhibit  
24 45, previously identified, was  
25 received into evidence.)

1 MR. GREENEBAUM: One moment, I think we can wind up.

2 JUDGE SIPPEL: Let's go off the record for one  
3 moment.

4 (Off the record. On the record.)

5 JUDGE SIPPEL: Back on the record. Mr. Greenebaum?

6 BY MR. GREENEBAUM:

7 Q Mr. Smith, do you have corporate credit cards with  
8 Sinclair?

9 A Yes.

10 Q And in connection with those credit cards did you  
11 have to fill out any applications?

12 A Yeah, we -- I think we -- I filled out the  
13 conventional credit card application form for American Express  
14 or Visa, whichever one it happens to be.

15 Q Who did you list as your employer or employment?

16 A I -- six, eight years ago.

17 Q You don't recall?

18 A No.

19 Q Fill out any loan documents?

20 A Pardon me?

21 Q Have you filled out any documents for loans or  
22 financing in any respect in the last three years?

23 A No, I don't think so. Not that I can recollect.

24 Q When is the last time you filed an application for a  
25 loan?

1           A     I don't recall to tell you the truth.

2           Q     Now, as I understand it, you and your brothers sit  
3 in a room essentially this size or a little smaller or larger  
4 and everybody does whatever comes to their attention at the  
5 time. Is that correct?

6           A     That's generally correct.

7           Q     And that's regardless of entity is involved?

8           A     That's correct, generally.

9           Q     And as I understand it, you and your brothers  
10 operate kind of a management committee approach. Is that  
11 correct?

12          A     We operate as owners, we have what is considered to  
13 be an executive committee, you know, that's involved in the  
14 decision-making process, you know, during, you know, any given  
15 point in time depending on the issue.

16          Q     Is it accurate that you use kind of a management  
17 committee approach?

18          A     I'd say that's, that's accurate on certain decision,  
19 yes.

20          Q     You all sit together and talk about problems as they  
21 arise and whatever and you hand the ball off to somebody to  
22 run -- is that correct?

23          A     That's generally correct, yes.

24          Q     You don't have any formal structure where people  
25 have assigned written responsibilities and delegated to --

1           A     No.

2           Q     And you communicate by talking to each other by  
3 virtue of your close physical relationship which by being in  
4 the same room rather than by writing memo reports and the  
5 like?

6           A     That's correct.

7           Q     Do you all plan to have some overall management  
8 committee in place formally or informally in connection with  
9 the operation of Channel 2 if you're successful?

10          A     Well, in the context of running a television  
11 station, the management committee has somewhat of a different  
12 meaning.

13          Q     Well, have, have any decisions been made along those  
14 lines?

15          A     No.

16          Q     Has it even been discussed?

17          A     Not particularly, not that I can recollect.

18          Q     Has it been discussed at all?

19          A     Not, not that I can recollect.

20          Q     And as president, are you the person that really  
21 runs things and even though the others have titles are they  
22 equally occupied with you in running the business?

23          A     I think I've answered the question.

24          Q     Are you the person that runs --

25          A     I'm the president of the company. I'm the first

1 person everybody looks to when there's problems.

2 Q And as president you're responsible for everything  
3 overall. Is that correct?

4 A Generally, yes, that's correct. There, there are  
5 certain things that I'm not involved in generally on a day-to-  
6 day basis but --

7 Q If you're successful at Channel 2 your brothers are  
8 going to participate with you. Is that correct?

9 A That's correct.

10 Q And as well as being corporate officers they're  
11 going to have responsibilities in the operation of the station  
12 on a day-to-day basis. Is that correct?

13 A That's correct.

14 Q And when you all talk and you meet, are you meeting  
15 as officers or as employees when you talk about the problems  
16 of your business as you sit --

17 A As I said, I don't consider myself to be an  
18 employee. I'm meeting as an owner. It's kind of the way I  
19 view it, actually.

20 Q Well, do you recall -- and I'll read more of this if  
21 I have to, Your Honor, to try to shorten it. On page 98 of  
22 your deposition July 29, 1993, you were talking about you and  
23 your brothers -- and you were talking about Robert. "The  
24 station manager -- focus on news, content of the news, public  
25 image of the station, that type of thing."

1 Question: "Anything else that you can think of?"

2 "Well, I mean getting back to the question of when  
3 he performs his function is he performing as an officer?"

4 Question: "As an operational person?"

5 Answer: "It's very difficult for me to distinguish  
6 between one and the other because we don't sit down in  
7 meetings of officers and then sit down and have meetings as  
8 employees."

9 Do you recall giving --

10 MS. SCHMELTZER: Excuse me, can you tell us where  
11 that is?

12 MR. GREENEBAUM: Page 98.

13 MS. SCHMELTZER: Of which deposition?

14 JUDGE SIPPEL: July '93.

15 MS. SCHMELTZER: We don't have a copy of -- we don't  
16 have --

17 MR. GREENEBAUM: July 29, '93.

18 MS. SCHMELTZER: We don't have a copy of that.

19 WITNESS: Is there a question?

20 JUDGE SIPPEL: No, that's all right, you don't have  
21 to answer that question. There's no copies available.

22 MR. GREENEBAUM: I'm sorry?

23 JUDGE SIPPEL: There hasn't been copies made  
24 available so he doesn't have to answer that question.

25 MR. GREENEBAUM: We'll make them available.

1 MR. ZAUNER: What page? 93?

2 MR. GREENEBAUM: 98.

3 MR. ZAUNER: 98?

4 JUDGE SIPPEL: Okay? Do you have the page in front  
5 of you now?

6 MR. GREENEBAUM: Yeah, I guess we'd better mark it  
7 then if that's --

8 JUDGE SIPPEL: Well, you've read it into the record  
9 and he has a chance to read it.

10 MR. GREENEBAUM: There's no need to mark it.

11 JUDGE SIPPEL: The witness has read the question, or  
12 has read the page or can read the page.

13 BY MR. GREENEBAUM:

14 Q Let me go just a little further -- line 18.

15 Question: "I'm asking you whether you're going to  
16 have a formal committee oversee the operation -- day-to-day  
17 basis."

18 Answer: "It could very well be."

19 Question: "But there's been no decision made along  
20 these lines?"

21 Answer: "No final decision has been made."

22 Question: "What has been discussed?"

23 "Just the generics of how -- talk about operation,  
24 you know, which isn't radically dissimilar from how we do  
25 things today. We -- view ourselves as officers in, you know,

1 | one category and employees in another and then act  
2 | accordingly."

3 |           Do you see that?

4 |       A     Yes.

5 |       Q     Now, you've used the word employee there twice of  
6 | your own volition. What did you mean by that?

7 |       A     Well, what I mean by -- when you sit at a holding  
8 | company level and run a company like Sinclair Broadcast, I  
9 | view myself as the principal. If were to sit down as a  
10 | general manager of a television station along with other  
11 | operational and management people of the company then I would  
12 | view myself differently because I'm operating at their level.  
13 | So, in that, in that context, sitting around a table with the  
14 | general manager and chief engineers and operations people, I  
15 | would consider myself to be an employee because I'm operating  
16 | at that level.

17 |           MR. GREENEBAUM: Your indulgence for just one  
18 | moment. Your Honor, I think subject to your ruling on the  
19 | documents I could conclude our examination. There are some  
20 | documents we haven't referred to that have been stipulated to  
21 | as being authentic and we want to move the package in at this  
22 | point.

23 |           JUDGE SIPPEL: These are the two volumes of Exhibit  
24 | 40?

25 |           MR. GREENEBAUM: Yes, Your Honor.

1 JUDGE SIPPEL: Well, are you finished with the  
2 examination of this witness?

3 MR. GREENEBAUM: Subject to the documents being  
4 admitted, yes. If they're admitted -- if there's an  
5 objection, well, he didn't identify these documents, we don't  
6 know what he says about them, those kind of objection which I  
7 don't think are valid and -- want to ask him about.

8 JUDGE SIPPEL: Well, I don't think that we're going  
9 to -- I'm not going to permit this to proceed in that fashion.  
10 I agree that I would -- I didn't agree, I said that I wanted  
11 to hear the evidence on the documents before I ruled on their  
12 admissibility on a relevancy basis. We got everything else  
13 stipulated to except relevancy. I'm prepared to do that now  
14 and this witness has been here since 10 o'clock this morning  
15 on the stand for the purpose of answering these questions and  
16 it's certainly been a thorough examination. I'd like to know  
17 is there going to be any redirect? You want cross --

18 MR. ZAUNER: Yes, I've got at least I would think.

19 JUDGE SIPPEL: You have an hour of cross?

20 MR. ZAUNER: I wouldn't be surprised if it took that  
21 long. We have two alternatives. We could continue on this  
22 evening or we can come back tomorrow morning.

23 JUDGE SIPPEL: You're going to redirect,  
24 Mr. Leader?

25 MR. LEADER: I don't think so.

1 JUDGE SIPPET: We do have the documents to take care  
2 of. Let's go off the record.

3 (Off the record. On the record.)

4 JUDGE SIPPET: I determine it appropriate that we  
5 recess tonight at 4:15. We'll pick up at 9:00 a.m. tomorrow  
6 morning first with documents in Exhibit 40 and then the cross-  
7 examination of Mr. David Smith by the Bureau and any redirect  
8 if Mr. Leader feels like it's appropriate. We're in recess  
9 then now until 9:00 a.m. tomorrow morning.

10 (Whereupon, hearing concluded at 4:15 p.m., on  
11 September 12, 1994.)  
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**Docket No.**

WASHINGTON, D.C.

**Place**

SEPTEMBER 12, 1994

**Date**

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